ESTTA Tracking number:

ESTTA484923 07/23/2012

Filing date:

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91193491
Party	Defendant Telefonica, S.A.
Correspondence Address	CHARLES P LaPOLLA OSTROLENK FABER GERB & SOFFEN LLP 1180 AVENUE OF THE AMERICAS, FLOOR 7 NEW YORK, NY 10036-8443 UNITED STATES clapolla@ostrolenk.com, smcmahon@ostrolenk.com
Submission	Other Motions/Papers
Filer's Name	CHARLES P. LAPOLLA
Filer's e-mail	clapolla@ostrolenk.com, smcmahon@ostrolenk.com
Signature	/CPL/
Date	07/23/2012
Attachments	4043-493 - Stipulated Motion of Amendment and Contingent Dismissal.pdf (3 pages)(117869 bytes)

UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

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ATI TECHNOLOGIES ULC.		:	Opposition No.: 91193491		
	Opposer,	:			
		:	Application No.: 78/812,301		
v.		:			
		:	Mark:	IMAGENIO	
		:			
TELEFONICA, S.A.		:			
		:			
	Applicant	:			
		:			
		X			

STIPULATED MOTION FOR AMENDMENT OF APPLICATION AND, CONTINGENT THEREON, FOR DISMISSAL OF PROCEEDINGS

Applicant, TELEFONICA, S.A., and Opposer, ATI Technologies ULC by their undersigned counsel jointly, move the Board for the following relief:

1. The statement of goods in Int. Class 9 of Applicant's application Serial No. 78/812,301 should be amended to reflect the following:

--Apparatus for recording, transmission or reproduction of sound or images; blank magnetic data carriers, blank recording and optical dises; automatic vending machines and parts thereof; cash registers, calculators, data processors and computers, computer programs for editing images, sound and video; computer and television screens, computer keyboards, computer mousse, blank CD ROMs for sound or video recording, telephonic apparatus in the nature of telephones, mobile telephones; transmitters and receivers of sound and images, automatic telephone exchanges, telephones, automatic answering machines—

As a result of the aforementioned amendment, the statement of goods in Int. Class 9 of Applicant's Application Serial No. 78/812,301 would read as follows:

--Automatic vending machines and parts thereof; cash registers, calculators, television screens, telephonic apparatus in the nature of telephones, mobile telephones; transmitters and receivers of sound and images, automatic telephone exchanges, telephones, automatic answering machines--

It is respectfully submitted that the requested amendment consists only of a deletion of the references to certain goods and not an addition to or expansion of the statement of goods and, that the requested amendment should be accepted. No amendments to the statements of services in Int. Classes 38 or 41 of Applicant's application Serial No. 78/812,301 are being sought by the parties.

2. Assuming the acceptance of the aforementioned amendment to the statement of goods in Int. Class 9 of Applicant's application Serial No. 78/812,301 and contingent thereon, the Notice of Opposition asserted by Opposer and the Counterclaim for Cancellation of Registration No. 2,865,458 asserted by Applicant should be dismissed without prejudice pursuant to Fed. R. Civ. P. 41(a) (1)(A)(ii).

Respectfully submitted,

Charles P. LaPolla

OSTROLENK FABER LLP

1180 Avenue of the Americas

New York, New York 10036-8403

Tel: (212) 382-0700 Fax: (212) 382-0888

Email: clapolla@ostrolenk.com

Attorneys for Applicant TELEFONICA, S.A.

7/23/12 Date /Belinda J. Scrimenti/

Belinda J. Scrimenti

PATTISHALL, MCAULIFFE, NEWBURY,

HILLIARD & GERALDSON LLP

311 South Wacker Drive

Suite 5000

Chicago, Illinois 60606

Tel: (312) 554-8000

Fax: (312) 554-8015

Email: bscrimenti@pattishall.com

Attorneys for Opposer

ATI TECHNOLOGIES ULC

Date: July 20, 2012

CERTIFICATE OF SERVICE

It is hereby certified that a true and correct copy of the foregoing STIPULATED MOTION FOR AMENDMENT OF APPLICATION AND, CONTINGENT THEREON, FOR DISMISSAL OF PROCEEDINGS has been served upon counsel for Opposer by email and first class mail postage prepaid on this <u>23rd</u> day of July, 2012 as follows:

Belinda J. Scrimenti, Esq.
PATTISHALL, McAULIFFE, NEWBURY,
HILLIARD & GERALDSON LLP
311 South Wacker Drive
Suite 5000
Chicago, Illinois 60606
Email: bscrimenti@pattishall.com

Sean P. McMahon